



April 2, 2001

Mr. Charles M. Allen, II
Richardson Police Department
P.O. Box 831078
Richardson, Texas 75083-1078

OR2001-1291

Dear Mr. Allen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 145508.

The Richardson Police Department (the "department") received a request for information regarding service number 00-107445. You indicate that the "front sheet information" from the incident report associated with this case was provided to the requestor. You claim that the balance of the requested information is excepted from disclosure under section 552.103 of the Government Code. You also indicate that a portion of the responsive information should be withheld because it is "data obtained from TCIC/NCIC." We have considered your arguments and reviewed the submitted information.

Section 552.103 of the Government Code excepts from disclosure information "relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party." Gov't Code § 552.103. You contend that "the responsive documents deal with a criminal case, which will be referred to the District Attorney's Office for litigation." However, neither the department, nor any employee of the department, is a party in this anticipated litigation. Although a governmental body may assert the litigation exception for information that a district attorney determines relates to a pending criminal case, Open Records Decision No. 469 (1987), you have not provided this office with such a representation by a district attorney. We therefore conclude that you have not shown how section 552.103 of the Government Code excepts the subject information from disclosure.

You claim that a portion of the information should be withheld because it was "obtained from TCIC/NCIC." Note that *criminal history record information* generated by the National Crime Information Center ("NCIC") or by the Texas Crime Information Center ("TCIC") is made confidential by statute. *See, generally*, Gov't Code ch. 411; Open Records Decision No. 565 (1990). However, not all information received from these agencies is criminal

record history information. From our review of the submitted materials, we conclude that no criminal history record information has been submitted. *See* Gov't Code § 411.082 ("criminal history record information" defined).

However, the submitted materials do include information that is subject to section 552.130 of the Government Code. This section provides:

(a) Information is excepted from the requirements of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state;

(2) a motor vehicle title or registration issued by an agency of this state; or

(3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

We have marked the submitted information that must be withheld under section 552.130 of the Government Code.

In summary, the information that we have marked as excepted by section 552.130 must be withheld and all other responsive information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

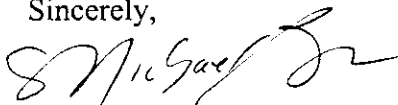
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/er

Ref: ID# 145508

Encl: Submitted documents

cc: RRS Police Records Management, Inc.
P.O. Box 4000
Norcross, Georgia 30091-9450
(w/o enclosures)